

November 20, 1974

CONGRESSIONAL RECORD — SENATE

TIME TO FACE THE ISSUE

The legislatures have apparently found it convenient to pass the buck to the police, prosecutors and courts to ameliorate the consequences of criminalization. The police respond unsystematically and inconsistently; the prosecutors decline to prosecute, sometimes with screening guidelines, most of time without them; and the judges respond according to their own views of the offense and of their role as judges. The real victim of legislative buck-passing is the rule of law. Police, prosecutors and courts roam at large in a sea of discretion because the public doesn't want to punish but the legislature doesn't want to repeal.

Each legislator in every state should ask himself if he would vote to make possession of marihuana a criminal offense if there were no criminal sanction now in effect. If the issue is thus put, I am sure the answer is "no." The public would not stand for it.

If use of marihuana—a previously unknown drug—had suddenly appeared on the American scene in 1970 among the same population and on the same scale it has now achieved, prohibition would not even been considered. The drug is used privately as a social drug, with shared ritual and meaning, among a broad spectrum of the American teenage and young adult populations. For the most part, use of the drug has not been associated with visible anti-social behavior. If marihuana had no past, the issue would be whether some form of government regulation would prove beneficial to the users or to the public coffers. And even then the using population would insist that any restrictive action be tailored narrowly to achieve a specific governmental purpose.

The answer should be no different when the question is whether or not to repeal the prohibition now on the books. Indeed, the decision is made easier by the fact that the costs of the criminal sanction are so well documented.

But somehow it does seem to make a big difference. It is contended that use of marihuana would be encouraged by decriminalization even though the substance itself would be contraband and its production and distribution would be outlawed. If the affirmative act of repeal is thought to be encouragement, then we have finally uncovered the pivotal explanation for legislative inertia.

History has woven a web around the use of marihuana; public and legislative reluctance to modify or eliminate marihuana prohibition in 1974 is based on attitudes moided by two generations of illegality.

Marihuana use in the 1960s confronted a system of criminal prohibition which carried its own meaning as defined in another time. Decades of classification as a narcotic, the presumptive immorality attaching to felonious conduct, and the implication of addiction, crime, and insanity had instilled in the public consciousness a fear of marihuana unjustified by the demonstrable effects of its use.

That fear and its codification by law now bars the way to a much needed reform.

Because the origins of marihuana prohibition undercut modern efforts to repeal it, I have attached, as an appendix, some relevant excerpts from *The Marihuana Conviction* (University Press of Virginia, 1974) by Professor Charles H. Whitebread and myself.

SOME COMMENTS ON THE CIVIL FINE

The only defensible alternative to a full de-penalization of marihuana use is the substitution of a civil sanction for possession in public. I refer of course to the Oregon scheme recently endorsed by Dr. Robert DuPont, Director of the National Institute on Drug Abuse and the Special Action Office for Drug Abuse Prevention.

As noted earlier, if violators are fined for every detected violation, the deterrent value of the civil sanction may approach, or even exceed, that of a sporadically applied criminal sanction. In my opinion, the ounce of deterrence thereby preserved does not warrant the diversion of law enforcement resources on the administrative burdens. However, for a legislature unwilling to discard the symbolism of illegality, the civil fine offers an acceptable substitute for the unacceptable criminal sanction.

In this regard, I should note that a civil sanction for marihuana use is in keeping with a significant modern trend. Commentators and public officials have consistently lamented the phenomenon of "overcriminalization"—the tendency to attach a criminal sanction to any and all disapproved behavior.

Although the statutory label varies, an increasing number of states have adopted the recommendation of the American Law Institute's Model Penal Code in 1962 to establish a category of offenses which do not give rise to the civil disabilities attending conviction of a crime. Some call it a "petty offense" or an "infraction" but most call it a "civil violation." One of the principles underlying this reform is that the criminal sanction should be reserved for morally reprehensible conduct and should not be diluted by application to conduct without serious social consequence.

Marihuana use, of course, is the perfect candidate for classification as a "violation," as the Oregon legislature recognized. The problem of marihuana use is not unique from a sanctioning standpoint. There are many examples of behavior that society wishes to prohibit but which are not serious enough to warrant the criminal sanction. Sometimes the law has the perfect word for the occasion—in New Jersey, the non-criminal offense is called a "nuisance violation." In my opinion, that sums up the issue perfectly: marihuana use, under present circumstances, is a nuisance, not a disaster; if there is to be a sanction, it should be formulated in keeping with the minor social consequence of marihuana use.

FOOTNOTES

¹ Hereafter, "possession" will refer to possession of small amounts for personal use and to casual, non-profit distribution of small amounts. The two activities are functionally equivalent, as the Commission, the Congress and many other legislatures have recognized. See *Marihuana: A Signal of Misunderstanding* at pages 157-58.

² *Marihuana: A Signal of Misunderstanding*, pages 138-146; 161-167.

³ In his recent statements on this matter, Dr. DuPont has reaffirmed the distinction between the health-related issues and the criminal law issues. In the fourth *Marihuana and Health Report*, the federal government has continued its prudent effort to disseminate up-to-date information about the effects of marihuana on health and behavior. Continuing uncertainty about these effects and the suggestion that there may be serious risks from heavy use clearly justify Dr. DuPont's efforts to discourage initiation and continuation of use. But this speculation about the potentially harmful effects of heavy marihuana use on individual health must not be allowed to obscure the well-documented harmful effect of the marihuana laws on the public well-being.

⁴ The only debatable issue is whether marihuana ought to be legitimately available in a regulatory system for use as an intoxicant or whether, instead, the prohibition of cultivation and distribution outside medical channels should remain in force. My own opinion is that a regulatory approach is, over the long term, a preferable implementation of a discouragement policy. However, it is apparent that serious consideration of this approach is premature. The immediate pri-

ority is decriminalization of possession. Once this has been done, the Congress and the state legislatures should initiate serious investigations into the alternative regulatory approaches. See generally *The Marihuana Conviction*, pages 299-304.

⁵ This is apparently not the case since alcohol is demonstrably more harmful. See *Drug Use in America: Problem in Perspective*, pages 116-117, for the comparative effects of psychoactive substances.

⁶ This is not necessarily an obvious conclusion. The connection between mere use and drug-related risk may not be close enough to warrant a discouragement policy toward recreational use of marihuana. See *Marihuana: A Signal of Misunderstanding*, pages 181-186; see also *Drug Use in America: Problems in Perspective*, page 147, 205-208. In this connection, marihuana should be contrasted with substances having a greater reinforcement potential, such as tobacco cigarettes on one extreme or heroin on the other.

⁷ See generally the Uniform Drug Dependence Treatment and Rehabilitation Act, especially § 412. See also *Drug Use in America: Problem in Perspective*, pages 243-277; Bonnie and Sonnenreich, *Legal Aspects of Drug Dependence* (CRC, in press 1974).

⁸ See generally, Zimring and Hawkins, *Deterrance: The Legal Threat in Crime Control* (1973).

⁹ See Heller, *A Conflict of Laws: The Drug Possession Offense and the Fourth Amendment*, 26 Okla. L. Rev. 317 (1973).

¹⁰ See the discussion at pages 12-14 *infra*.

¹¹ That is, the mere declaration of criminality may make the difference. Scholars refer to this possibility as the "moralizing" or symbolic effect of the criminal sanction. This phenomenon probably doesn't play much of a role for marihuana use given changing public attitudes toward use and given the predominant role of social factors in determining whether an individual will use the drug.

¹² See *The Marihuana Conviction*, page 282-284. Compare the ABA Standards on Criminal Justice which legitimize police and prosecutorial discretion not to enforce laws like the marihuana possession offense. *Standards on the Urban Police Functions* §§ 3.1-3.4, 4.1-4.8; *Standards on the Prosecution Function* §§ 3.4, 3.9.

¹³ See *The Marihuana Conviction*, page 281.

¹⁴ See, e.g., *Menard v. Mitchell*, 430 F2d 486 (D.C. Cir. 1970); *Menard v. Saxbe*, 498 F2d 1117 (D.C. Cir. 1974).

¹⁵ Half the state statutes bar from public employment persons with criminal records of one kind or another; the other half authorize the administrators in their discretion to deny employment to persons with prior criminal records.

SUPPLEMENTAL APPROPRIATIONS, 1975

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, H.R. 16900, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

The Senate resumed the consideration of the bill.

NOTE

On November 19, 1974, during the consideration of supplemental appropriations, 1975, Senator YOUNG proposed an amendment on page S19621 relating to restoration of northern border activities.

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The RECORD should reflect that in the course of debate thereon, at his request, the name of Senator BURDICK was added as a cosponsor. The permanent RECORD will be corrected to show Mr. BURDICK as a cosponsor of Mr. YOUNG's amendment.

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the Scott-Mansfield amendment.

Mr. HUGH SCOTT. Mr. President, I yield myself 2 minutes.

I have written a letter to all of our colleagues on behalf of Senator Mansfield and myself, pointing out that he and I have sponsored this amendment appropriating \$10 million for Eisenhower College in accordance with the authorization signed into law October 11 last.

This money is not to come from the Treasury's general revenues, but, rather, from the sale of the \$10 souvenir Eisenhower silver dollars.

The Treasury has already realized more than \$830 million from the sale of the souvenir coins.

I would like to stress that the amendment is not designed for the relief of Eisenhower College alone. If it were solely for the purpose of assisting a single hard-pressed school, I would not be a sponsor. I share the concern that there are many deserving colleges merit-ing assistance.

This appropriation, however, is for a living memorial to the late President Eisenhower, a memorial specifically designated by General Eisenhower who felt that the college would be preferable as a memorial rather than a cold, sterile monument.

Before his death, General Eisenhower visited the school, and today his family, particularly his widow, Mrs. Mamie Eisenhower, and his former comrades of World War II—and a host of his admirers, including the distinguished president of the AFL-CIO, Mr. George Meany—all strongly support this proposal.

I would hope that my colleagues would join me in this matter.

Just to give a little history—

The ACTING PRESIDENT pro tempore. The Senator's 2 minutes have ex-pired.

Mr. HUGH SCOTT. I yield myself 1 additional minute.

As a matter of a little history, I think I ought to add that we helped in the same way to finance the John F. Kennedy Center for the Performing Arts. I cosponsored legislation for scholarships in honor of the late President Truman. I think I was one of the first cosponsors to the suggestion made by the distin-guished Senator from Washington (Mr. MAGNUSON), and the distinguished Senator from Missouri (Mr. SYMINGTON).

The same has been done with regard to memorials to the late President Franklin Roosevelt.

There has never been any objection lodged that I can recall on most of these. There was some objection on the size of an amount in one case among all of these cases. But whenever we have honored former Presidents we have done it in an entirely bipartisan manner. We on this

side have always joined in it. Here there is the same reasoning exactly.

As of June 28, a total of 8,327,063 coins had been sold. But of that sum, 10 percent—I hope the Senator from Arkansas will notice this—\$832,706.30, was transferred by the college to the Rayburn Library under the authorizing legislation. The orders for the silver dollar were closed as of June 28, 1974.

For the period of 1975-76 the coin will be sold only as a part of the Bicentennial coin package, with no receipts from the sale of these coins to go to the college. However, after 1976 the coin will again go on the market and the proceeds will again be eligible to be funneled into the colleges.

It should be remembered that even through Eisenhower College cannot receive the proceeds from the sale of the Bicentennial coin, the Treasury Department does still receive the profits.

Mr. President, I again suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. HARRY F. BYRD, JR. Mr. Presi-dent, will the Senator from Arkansas yield?

Mr. McCLELLAN. I yield 2 minutes.

Mr. HUGH SCOTT. I withdraw my suggestion as to the absence of a quorum.

The ACTING PRESIDENT pro tempore. The Senator from Virginia is rec-ognized for 2 minutes.

Mr. HARRY F. BYRD, JR. Mr. Presi-dent, I have great admiration for Dwight D. Eisenhower both as an individual and as a President. I think he made a good President. I think he was a great general, a great American.

I have considerable doubt, however, as to the wisdom of this particular amend-ment. I would like to ask the Senator from Pennsylvania a question, if I might.

The Richmond News Leader in an edi-torial says that Eisenhower College offi-cials have agreed to divert 10 percent of the college's requested \$10 million to the Sam Rayburn Library, another great American.

There are several ramifications to this, as I see it.

Is that correct, that part of the funds will go to the Sam Rayburn Library?

Mr. HUGH SCOTT. That is my under-standing. I had earlier made that state-ment here in the Chamber.

Mr. HARRY F. BYRD, JR. I assume the only reason for that—maybe there is another reason—or the apparent reason, is that that would help get votes for the legislation in the House of Representa-tives. Is there any other reason why they would be diverted?

Mr. HUGH SCOTT. I would not ascribe such motives to anyone. It may be that in the other body the reverence for Sam Rayburn is the same as we hold here, but I believe the library was named in honor of the late Sam Rayburn as a liv-ing memorial. It would be my thought that if we should modify our amendment, it would provide again the 10 percent of whatever amount is appropriated to be made available to the Rayburn Library.

Mr. HARRY F. BYRD, JR. They are both great Americans. Does the amend-

ment provide that 10 percent goes to the Rayburn Library?

Mr. HUGH SCOTT. It will, as soon as I modify it.

The PRESIDING OFFICER (Mr. CRANSTON). The Senator's time has ex-pired.

Mr. HARRY F. BYRD, JR. Mr. Presi-dent, I ask unanimous consent that there be inserted at this point in the RECORD the editorial I referred to from the Rich-mond News Leader entitled "A Few Mil-lion Here . . ."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A FEW MILLION HERE . . .

President Ford has a harder job on his hands than he thinks if he hopes to woo Congress out of its free-spending habits. The road to the public purse has been worn smooth by the knees of supplicants who crawl with outstretched palms, seeking succor in the form of tax dollars. Unfortunately, Congress enjoys the role of benefactor, and it seldom says "no" to any cause it considers worthy.

It didn't say "no" the other day when it voted to appropriate \$10 million for the benefit of the Eisenhower College and the Sam Rayburn Library. The Eisenhower College opened its doors in 1968 with a \$5 million contribution from public funds, and college sponsors told Congress that \$5 million would be enough, thank you. But last year, college spokesmen changed their minds and entreated Congress to give the college \$10 million from the proceeds of the sale of Eisenhower dollars.

The bill didn't go through last year, but, like all dubious legislation, it returned this year. This time around, opponents lost their fight. Eisenhower College officials had agreed to divert 10 per cent of the college's requested \$10 million to the Sam Rayburn Library. The opportunity to bestow public funds on two institutions memorializing national leaders proved irresistible to the nation's legislators. The bill passed, and President Ford signed it.

Only a few demurrs were voiced about the doubtful rationale for funneling federal cash to private institutions. Congressman H. R. Gross of Iowa denounced the appropriation as a log-rolling device for indirect financing. Representative Edith Green ques-tioned the wisdom of singling out two private institutions for federal aid when hundreds of others need help. *Wall Street Journal* re-porter Albert Hunt wondered about the split appropriation for a college located in Seneca Falls, New York, and for a library located in Bonham, Texas. "One rationale for this is that the political science students at the Seneca Falls, New York, campus can then use the library facilities in Bonham, Texas, some 1,500 miles away," he wrote.

Criticisms such as these don't bother a majority of Senators and Congressmen. Time and again they have voted to appropriate more funds for projects initially funded, as project sponsors promised—cross their hearts and hope to die—that the first funding would be the last requested. The Ken-ney Center in Washington comes Immedi-ately to mind. But Congress dispenses a few million here, a few million there, as if \$10 million or so were no more than walking-around money. Until Congress can be per-suaded to kick its spendthrift habits by re-jecting such boondoggles, President Ford's "Whip Inflation Now" campaign will be no more than a pipe dream.

Mr. HUGH SCOTT. Will the Senator yield an additional 2 minutes?

Mr. MAGNUSON. I yield.

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Mr. HUGH SCOTT. I yield to the Senator from New York.

Mr. JAVITS. The thing that is important in these circumstances is the following, Mr. President: In view of the fact that the amount to the Eisenhower College will be reduced to 10 percent of the amount actually received for these coins, I believe it would be fair to provide separately for the Rayburn Library.

In other words, the provision would then read for Eisenhower College \$8,327,063, except for the amount of 10 percent to be provided to the Rayburn Library at Bonham, Texas—under section 2(c)—shall be separately provided in the amount of \$837,000.

I believe that would result in giving what Eisenhower College ought to have, and without deducting from the already reduced amount the \$837,000, which would then go to the Rayburn Library.

I might point out in that regard, Mr. President, that this is by no means an unusual situation. Indeed, we are not treating Eisenhower nearly as well as we have treated other Presidents.

For example, we just passed the Harry S. Truman Memorial Scholarship Act, with an authorization of \$30 million. I think we all support that.

Mr. HUGH SCOTT. Not a word was raised against it in this body.

Mr. JAVITS. Not a word. Look at what we have spent on the Kennedy Center. We have spent \$50 million on the Kennedy Center. Eisenhower was not only a great President in terms of the tranquility which was vouchsafed to the American people during that period, which we can more appreciate today.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MAGNUSON. I yield time to the Senator.

Mr. JAVITS. But also, he certainly is entitled to at least equal treatment with Harry Truman and Jack Kennedy. None of us, I think, would wish to controvert that.

I feel that this is the very minimum of fairness, and I hope that Senator Scott will amend his amendment that way.

I should like to add one other point: A great deal of money has been poured into this college by the friends of Dwight Eisenhower, at least equal to what the Federal Government has done.

On all those grounds, I think this is eminently justified.

The PRESIDING OFFICER. All time has expired.

Mr. McCLELLAN. I yield 1 minute.

The PRESIDING OFFICER. All time has expired.

Mr. HUGH SCOTT. On the bill?

Mr. President, I ask unanimous consent that debate may continue for 4 additional minutes, for the purpose of enabling me to offer a modification of my amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that I may modify my amendment in the terms suggested by the distinguished Senator from New York, to be in the amount of \$8,327,063, and 10 percent of that to be trans-

ferred by the college to the Rayburn Library."

Mr. JAVITS. Mr. President, I do not think that is quite accurate. What I had in mind was to provide \$8,327,063 to Eisenhower College, and then to provide separately \$832,000 to the Rayburn Library.

Mr. McCLELLAN. Is there any authorization or statute authorizing that?

Mr. JAVITS. I think that is a valid point.

Mr. President, I ask unanimous consent that after the 4 minutes have expired, there be a quorum call and then 2 minutes allowed to the proponents and the opponents, should the proponents desire to propound an amendment to the amendment. This is not any waste of time, as I could amend the amendment, anyhow.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? The Chair hears none, and it is so ordered.

Mr. HUGH SCOTT. Mr. President, I yield 1 minute to the distinguished Senator from New Hampshire (Mr. COTTON).

Mr. COTTON. Mr. President, I want to ask one question, and this perhaps is because my understanding is not clear. I cannot quite understand the need for legislation about the amount of coins to be sold to the public for the benefit of Eisenhower College. It seems to me that if we authorize the coinage of the Eisenhower dollars, the people interested in the college can buy the dollars for \$1 apiece and dress them up as they choose and sell them. I wonder why it was necessary for legislation to extend to the sale as to the amount of the dollar.

Mr. HUGH SCOTT. I can explain that. Three kinds of dollars are authorized.

Mr. COTTON. I am in favor of it.

Mr. HUGH SCOTT. I understand.

Three kinds of dollars are authorized under the existing act. One is the so-called "sandwich" dollar. The second is the uncirculated dollar, 40 percent silver, which sells for \$3 from the Treasury. The other is the so-called proof dollar, or jeweler's silver dollar, which sells for \$10. Therefore, it is necessary to have an appropriation implementing the authorization; and the authorization says what is not now in the law, and that is that, of a certain proportion of these over \$80 million being received, \$10 million—or, as now modified, some \$8 million plus—of these profits may be channeled to the Eisenhower College. So that they get roughly 10 percent of all the profit made by the Federal Government.

The PRESIDING OFFICER. The 4 minutes have expired. Under the unanimous-consent agreement, there will now be a quorum call.

Mr. COTTON. Mr. President, I ask unanimous consent to proceed for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COTTON. What kind of dollar do these people get, of the three?

Mr. HUGH SCOTT. The \$10 dollar—that is, the dollar which sells for \$10.

Mr. COTTON. I see. We authorized the mintage of that for this purpose.

Mr. HUGH SCOTT. We have already

authorized that. It is out of the proceeds, where we have already sold some \$80 million worth of coins, that this amount is being allocated.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUGH SCOTT. Mr. President, in the very brief time available to me, I ask unanimous consent that I may modify my amendment, and I send the modification to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modified amendment will be stated.

The legislative clerk read as follows:

On page 23, after line 6: Department of the Treasury Bureau of Government Financial Operations Eisenhower College Grants for payments to Eisenhower College as provided by Public Law 93-441, \$9,000,000.

Mr. HUGH SCOTT. Mr. President, the amendment now, instead of "\$10 million," reads "\$9 million," because under the public law authorization signed in October, the 10-percent allocation to the Rayburn Library is contained in the authorization.

Therefore, I have further modified, from \$10 million down to \$8,327,063 to \$8,100,000 for the Eisenhower College, because \$900,000 now becomes available to the Rayburn Library.

Therefore, I ask unanimous consent that my amendment may be modified accordingly, with this further reduction.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUGH SCOTT. I yield back the remainder of my time.

Mr. McCLELLAN. Mr. President, with this modification, I shall support the amendment. It is a little more than is actually in the Treasury now, but I am certain that the sales will soon be made to take up the slack. With this modification, I will support the amendment.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. JAVITS. I greatly appreciate this. The college is acquiring an excellent reputation, and with this help, I think it will be a fine memorial to General Eisenhower.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. Mc-

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GOVERN), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from California (Mr. TUNNEY), and the Senator from South Dakota (Mr. ABOUREZK) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. HUMPHREY) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Rhode Island (Mr. PASTORE), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY), the Senator from Illinois (Mr. PERCY), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) and the Senator from New York (Mr. BUCKLEY), are absent on official business.

I further announce that the Senator from Oregon (Mr. HATFIELD) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 52, nays 26, as follows:

[No. 487 Leg.]

YEAS—52

Baker	Hartke	Moss
Beall	Haskell	Muskie
Bible	Hollings	Packwood
Brock	Hruska	Pearson
Brooke	Huddleston	Roth
Byrd, Robert C.	Hughes	Schweiker
Case	Incouye	Scott, Hugh
Clark	Jackson	Sparkman
Cook	Javits	Stafford
Cotton	Long	Stevens
Cranston	Magnuson	Stevenson
Curtis	Mansfield	Symington
Dole	McClellan	Taft
Domenick	McGee	Thurmond
Ervin	McIntyre	Welcker
Fong	Metcalf	Young
Gravel	Mondale	
Griffin	Montoya	

NAYS—26

Aiken	Eastland	Nunn
Bartlett	Fannin	Proxmire
Bayh	Hansen	Ribicoff
Bellmon	Hart	Scott
Biden	Hathaway	William L.
Burdick	Heims	Stennis
Byrd,	Johnston	Talmadge
Harry F., Jr.	McClure	Williams
Cannon	Metzenbaum	
Chiles	Nelson	

NOT VOTING—22

Abourezk	Fulbright	Pastore
Allen	Goldwater	Pell
Bennett	Gurney	Percy
Bentsen	Hatfield	Randolph
Buckley	Humphrey	Tower
Church	Kennedy	Tunney
Dominick	Mathias	
Eagleton	McGovern	

So the amendment as modified was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PEARSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1989

The PRESIDING OFFICER (Mr. CRANSTON). Under the previous order, the Senator from Minnesota (Mr. MONDALE) is recognized for the purpose of calling up an amendment.

Mr. MONDALE. Mr. President, I yield 3 minutes to the distinguished majority leader.

The PRESIDING OFFICER. The amendment will first be laid down.

Mr. COTTON. Mr. President, will the Senator yield to me first for a unanimous-consent request?

Mr. MONDALE. Yes. Mr. President, I first yield 1 minute to the Senator from New Hampshire.

Mr. COTTON. Mr. President—

The PRESIDING OFFICER. The amendment will first be laid down. The clerk will state the amendment.

The legislative clerk proceeded to read the amendment.

Mr. MONDALE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE's amendment (No. 1989) is as follows:

On page 10, line 20, strike out "Part A" and insert in lieu thereof "Parts A and B"; and on page 11, line 8, strike out "Part A" and insert in lieu thereof "Parts A and B".

Mr. COTTON. Mr. President, I ask unanimous consent that Robert Mercer of my staff be allowed the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I call up an amendment which I have discussed with the chairman and the ranking Republican member of the Appropriations Committee, and the chairman of the subcommittee, dealing with the subject.

The PRESIDING OFFICER. Does the Senator from Minnesota yield for that purpose?

Mr. MONDALE. I ask unanimous consent to yield to the Senator from Montana for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. I yield the Senator 2 minutes.

Mr. MANSFIELD. The Senator from Minnesota has yielded time.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 26, between lines 19 and 20, insert the following:

For an additional amount for "construction", \$100,000, to remain available until expended: Provided, That this amount shall be available to assist the Starr Community School, Blackfeet Reservation, Montana, to initiate construction of school facilities.

Mr. MANSFIELD. Mr. President, Senator METCALF, my colleague from Montana, and I met with Earl Oldperson, the president of the Blackfeet Tribal Council and five other tribal members on yesterday.

He informed us that 2 weeks ago the Montana State Board of Education had condemned the Starr School, an elemen-

tary school, which takes care of the education such as it is—of the Blackfeet Indian children and, therefore, they were meeting in a place which was ill-ventilated, certainly unhygienic, and that what was needed at this time was the beginning of the setting up of plans for the construction of a new school for these Indian children.

During the last 2 weeks, the 40-year-old school, as I have indicated, was condemned by the State authorities for the children. The walls are buckling, and so are the floors.

On Monday of this week the school was boarded up, and the children are having classes doubled up in a trailer and in a community building and, at the present time, Senator METCALF and I are in the process of obtaining four trailers through surplus property and have located some at Indiantown Gap in Pennsylvania. But, as we all know, the paperwork of getting these transferred will take a long time. Delivery, we expect, will be forthcoming at an appropriate time, and the paperwork will be made through the Johnson-O'Malley funds.

I ask on behalf of these 50 Indian children, who have not been given the best of everything in the history of this country, that this amendment be accepted.

Mr. McCLELLAN. Mr. President, I yield myself 2 minutes.

Is this school now in existence?

Mr. MANSFIELD. It is in existence, but it is boarded up, because the floors and walls are buckling.

Mr. McCLELLAN. It has been condemned?

Mr. MANSFIELD. It has been condemned.

Mr. McCLELLAN. The present building has been condemned?

Mr. MANSFIELD. Two weeks ago.

Mr. McCLELLAN. Is it a Government structure?

Mr. MANSFIELD. Yes.

Mr. McCLELLAN. This is to replace a Government structure?

Mr. MANSFIELD. To lay the plans for the replacing of a Government structure by another Government structure.

Mr. McCLELLAN. This does not indicate, and we do not know, what the ultimate cost will be. This is simply to make a survey and give Congress a report on what the requirements are and the probable costs thereof?

Mr. MANSFIELD. That is right.

I would hazard a guess that the costs would be slightly over \$1 million overall.

Mr. McCLELLAN. But it is the beginning of an anticipated project?

Mr. MANSFIELD. It is.

Mr. McCLELLAN. And this is a preliminary expenditure which is necessary to establish not the need for it, but its possible requirements and anticipated costs?

Mr. MANSFIELD. The Senator is correct.

The chairman of the Interior Subcommittee is well aware of all the details involved.

Mr. McCLELLAN. I just wanted to make the RECORD clear.

Mr. YOUNG. Mr. President, will the Senator yield?

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MR. MANSFIELD. Yes.**Mr. YOUNG.** There is no question in my mind but what the school must be rebuilt, and putting money in this bill will save about a year.**MR. MANSFIELD.** I yield to the Senator from Nevada.**Mr. BIBLE.** It was considered, but it was not ready to be moved forward at that time. It would be a bad mistake if we did not appropriate this money immediately and get not only the planning but further construction underway without delay.

I think the total cost is a little less than \$1 million. That is my memory of it.

MR. MANSFIELD. Right.**Mr. BIBLE.** I think it should be allowed.**The PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from Montana.**Mr. McCLELLAN.** Mr. President, my only purpose is to establish the record so we can have it when requests for appropriations are made.**MR. MANSFIELD.** I appreciate the Senator's effort in doing it.

The amendment was agreed to.

AMENDMENT NO. 1989

The PRESIDING OFFICER. The Senator from Minnesota is recognized.**Mr. MONDALE.** Mr. President, this amendment simply continues funding for the special incentive grant program—part B of title I of the Elementary and Secondary Education Act—as it has been funded in the past, and as it is provided for in the authorizing legislation. This program provides incentive grants to States that make a higher than average effort to support elementary and secondary education.

As the distinguished floor manager knows, this program has been funded automatically out of the overall title I appropriation for the past 3 years, and during this 3-year period, 28 different States have received grants.

During Senate consideration of the education amendments of 1974 this past June, Senator McCLELLAN offered an amendment, which was subsequently adopted, that changed the formula by which funds are distributed under part A of title I.

But at that time I worked with Senator McCLELLAN to assure that the part B program would continue to receive automatic funding out of the total title I appropriation; he accepted my amendment in this regard, and it subsequently became law.

Now for reasons I do not understand, the supplemental appropriations bill passed by the House runs directly contrary to the authorizing legislation and provides no funding at all for part B. And the bill as reported by the Senate Appropriations Committee contains the same problem.

My amendment simply conforms the appropriation bill to the provisions in the authorizing legislation by making the part B an automatic entitlement.

I cleared this amendment with the chairman of the Appropriations Committee, Mr. McCLELLAN, the chairman of

the subcommittee, Mr. MAGNUSON, the ranking member of the minority on the Appropriations Committee, Mr. YOUNG, and all are agreeable.

This amendment does not cost any additional money. It is a small special incentive grant program which has been in being for the past several years, and I would hope that could be accepted.

Mr. McCLELLAN. My understanding is that this does not increase the appropriation. It is not an appropriation. It simply is a transfer of funds from one title to another that actually belong in part B; am I correct?**MR. MONDALE.** The Senator is correct.**Mr. McCLELLAN.** It was so intended in the legislation, as I recall. This amendment, therefore, proposed by the distinguished Senator would make the appropriations in accordance with the statute.**MR. MONDALE.** The Senator is correct.**Mr. McCLELLAN.** I have no objection.**Mr. COTTON.** Mr. President, will the Senator yield to me?**MR. MONDALE.** Yes.**Mr. COTTON.** I see by the sheet, which reached us this morning, the States that presumably or that it is estimated would gain from the Senator's amendment.

First, I congratulate the Senator because of the fact that this amendment does not increase money in the bill. I think we on the committee are grateful.

I am not hostile to his amendment. I would be friendly because of that. But I am a little concerned.

I note by this estimate which, I assume, is only an estimate and may not eventuate, that 22 States would benefit by this amendment.

If we do not increase the money in the bill, and the 22 States get more than they otherwise would, that has got to come from the other 28 States, if my arithmetic is correct. Is not that a fact?

MR. MONDALE. Yes.

May I respond to the Senator? This part B distribution is not new. It has been the law for the last 3 years, so it does not change the distribution of the funds as it is now known by the States or by the local school districts.

Second, it is a very small proportion of the total appropriated for title I. It is only \$28 million out of \$1.8 billion.

The reason for this program—which was authored by Senator DOMINICK—is to try to provide some modest incentive for States to assume a greater share of the burden themselves in terms of effort.

Over the last 3 years, 28 States have benefited. Which States benefit in any one year depends which States exceed the national effort average. It is a modest amount. The most that any State gets is about \$4 million. Most get far less than that. It is, in effect, a token expression to States which take on a larger share of their own educational effort. I ask unanimous consent that a table estimating State-by-State distributions under my amendment be printed at this point in my remarks.

There being no objection, the table was ordered to be printed in the Record as follows:

ESTIMATED DISTRIBUTION OF LANDS UNDER MONDALE AMENDMENT

ESTIMATED DISTRIBUTION OF \$1,823,300,000 for PUBLIC LAW 89-10, TITLE I, PART A AND PART B

	Estimated total pt. A ¹	Estimated total pt. B ²
United States and out-lying areas.....	\$1,795,300,000	
50 States, District of Columbia and Puerto Rico.....	1,774,280,250	\$280,000,000
Alabama.....	41,544,976	0
Alaska.....	5,235,811	713,683
Arizona.....	16,225,358	0
Arkansas.....	26,000,161	0
California.....	148,940,525	0
Colorado.....	16,646,370	154,850
Connecticut.....	16,580,832	103,926
Delaware.....	5,264,164	219,470
Florida.....	62,014,093	0
Georgia.....	45,741,058	0
Hawaii.....	5,109,033	0
Idaho.....	5,769,423	0
Illinois.....	91,323,981	0
Indiana.....	24,625,226	0
Iowa.....	15,809,011	71,220
Kansas.....	13,648,358	0
Kentucky.....	32,915,243	0
Louisiana.....	49,740,586	1,514,668
Maine.....	7,049,168	488,021
Maryland.....	29,518,986	313,912
Massachusetts.....	35,719,630	442,990
Michigan.....	74,383,980	4,200,000
Minnesota.....	27,092,249	3,513,767
Mississippi.....	40,024,337	0
Missouri.....	31,409,991	0
Montana.....	5,906,036	286,007
Nebraska.....	9,108,149	0
Nevada.....	2,318,118	0
New Hampshire.....	3,324,147	0
New Jersey.....	55,220,359	2,196,509
New Mexico.....	14,892,288	1,390,149
New York.....	210,369,401	4,200,000
North Carolina.....	53,187,262	0
North Dakota.....	5,604,141	0
Ohio.....	57,638,809	0
Oklahoma.....	20,536,224	0
Oregon.....	16,951,044	788,754
Pennsylvania.....	85,620,576	2,744,610
Rhode Island.....	6,673,227	0
South Carolina.....	33,324,763	0
South Dakota.....	6,180,926	0
Tennessee.....	38,451,334	0
Texas.....	120,688,801	0
Utah.....	5,919,192	344,722
Vermont.....	3,710,602	736,576
Virginia.....	38,273,178	0
Washington.....	24,742,346	872,784
West Virginia.....	17,337,998	0
Wisconsin.....	28,207,265	2,301,347
Wyoming.....	2,725,841	397,035
District of Columbia.....	11,170,543	0
Puerto Rico.....	27,862,830	0
Outlying areas.....	21,019,750	

¹ Reduction of estimated authorization under title I, part A with State agencies held at 100 percent authorization, and Puerto Rico reduced under provisions of Public Law 93-380.² Ratable reduction of authorization (\$171,413,616) to \$28,000,000, with no State receiving more than 15 percent (\$4,300,000) of \$28,000,000.**MR. MONDALE.** This program was continued in the Education Amendments of 1974. It is strongly supported by the Senate's Labor and Public Welfare Committee, and I would hope that in light of that theory and those facts that the Senator from New Hampshire would be able to support this amendment.**MR. COTTON.** There is a certain other situation which concerns the Senator from New Hampshire which he does not intend to press but, repeatedly, in past years, the Senator from New Hampshire has been compelled to vote against this formula—and that does not affect the Senator's amendment particularly. It affects the whole distribution.

One of the factors, of course, in the formula is the effort, the effort that the States have indicated they are putting into support of their schools and, it seems, in an effort to support their

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schools to the extent of their ability to get credit for it. Unhappily, the State I represent, the people of the State, the taxpayers of the State, support the schools, but they do not do it through the State treasury.

The State uses its funds for other purposes, to relieve taxation in the cities and the towns and counties or subdivisions, but the schools are supported by the subdivision's real estate tax and certain other taxes that are levied.

So that we never get credit for the fact that a number of dollars in my State are put into the support of public education by the taxpayers of the State.

The fact that it is not channeled through the State treasury means that under this fund we do not get what I think should be our fair share, I mean we suffer from that particular feature, but that is not just confined to the Senator's amendment, it is confined to the whole situation.

Consequently, the Senator from New Hampshire finds himself personally embarrassed because representing his State he has to take a certain position. However, the Senator from New Hampshire is not seeking to do anything to defeat the Senator's amendment because the Senator has shown consideration by not blowing up the bill by additional money. I suppose there is some reason why 22 States would profit by it and 28 States would lose by it. However, I am not asking the Senator to go into all details of it.

Mr. MONDALE. I may make one further point, at the time this part B program was extended as part of the Education Amendments of 1974, we made a fairly fundamental change in title 1, part A distribution formula by adopting the McClellan amendment. I do not have the tables before me, but I suspect that New Hampshire does better under the McClellan formula than it did before because that new formula changed somewhat the amount of money flowing to the larger center cities and increased the flow of money to rural areas.

I suspect that when we look at the total going to New Hampshire, and I do not have the table, they are probably doing better overall this year than before.

Mr. COTTON. I am aware of that and appreciate that. The Senator from Minnesota has been a recent visitor to my State. As a matter of fact, while I do not interfere with the internal politics of the party to which I do not belong, I did have an opportunity to speak to a couple of the educators for what had been done for our State in this respect. So give me credit for giving the Senator credit in the very State that has the first Presidential primary.

Mr. MONDALE. I have heard about that.

Mr. COTTON. The question still remains, however. I am wondering about these other 28 States, they have got to lose something, and cannot get anything, actually, from the 22, so in a sense the amendment must rob Peter to pay Paul. Maybe there is a real fundamental reason for that.

Mr. MAGNUSON. Mr. President, I want to clarify the record here just a little bit.

There is a total appropriation for this program of \$1.8 billion, and the Senator from Minnesota is merely attempting not to add to that, but to shift \$28 million, is that correct?

Mr. MONDALE. That is correct.

Mr. MAGNUSON. All right, so that the record will be clear.

The PRESIDING OFFICER. Is all time yielded back?

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Minnesota (Mr. MONDALE).

The amendment was agreed to.

The PRESIDING OFFICER. Under the previous order, the Chair now recognizes the Senator from Louisiana.

AMENDMENT NO. 1981

Mr. JOHNSTON. Mr. President, the question at issue is whether or not we shall fund adult education in this country at 90 percent of the level of last year. It is very simple, Mr. President, under the present legislation.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

On page 13, line 5, after "as amended," delete "\$128,438,000" and insert in lieu thereof "\$155,250,000".

On page 13, line 6, after "amount" delete "\$63,319,000" and insert in lieu thereof "\$77,625,000".

Mr. JOHNSTON. Mr. President, this amendment is very simple. All it does is to give effect to the action already taken by the Senate in May of this year which guarantees that no State shall receive less than 90 percent of the grant it received in fiscal year 1973 for adult education.

Mr. President, what the present legislation does is take away money from the States that need it most in adult education. It is very nice, Mr. President, to have high levels of literacy, to have high levels of education, but in my State of Louisiana, which stands second from the top in illiteracy, we are being cut by \$246,000 on a program which provides the only basis we have, Mr. President, to do away with adult illiteracy.

Some 70,000 citizens in my State of Louisiana have never gone to the first grade, have never received any education at all, and now through a program of adult education these people are given hope, are given some modicum of education, the ability to read, the ability to work with figures, the ability, indeed, to get some basis to compete in the job market.

Mr. President, it is no wonder that my State, which stands second from the top in illiteracy, is at the top in unemployment, at the top of the Nation my State stands in unemployment, and why? Because we have so many people, so many people who cannot read and write, who suffer with that terrible stigma of illiteracy.

Mr. President, if we were talking about blind people, if we were talking about deaf people, if we were talking about mentally retarded people, this Senate would rise up as it has in the past, and thank God for it, and take care of those people, but when we are talking about illiteracy, being handicapped, perhaps

worse than blindness and worse than deafness, then this Senate turns a deaf ear.

Mr. President, we are not asking for a great deal of money. We are asking for \$14 million for this year to restore to those 12 States, I believe it is, who have been cut, States who have been cut deeply.

Listen to this list. Alabama was cut \$90,000; Texas \$120,000; Mississippi \$162,000; South Carolina, which has been in competition with my State of Louisiana as the most illiterate, \$183,000; Georgia \$238,000; and Louisiana has been cut \$246,000 on a program essential, essential to do away with the scourge of illiteracy.

Now, Mr. President, we are trying to conserve money, we are trying to do what we can to fight inflation, but of all places to fight inflation, let us not do it at the price of ignorance, let us not do it at the price of illiteracy, and that is what this amendment does. What this amendment does is try to restore those funds that we need to fight this battle of illiteracy and fight this battle of ignorance and fight this battle of unemployment because the two go hand in hand, go right together.

Mr. President, all this amendment does by adding the \$14 million for this year is to give effect to what this Senate did on May 16, 1974, when as an amendment to the Elementary and Secondary Education Act we provided that no State shall receive less than 90 percent of what it did last year in adult education.

Mr. President, I hope this Senate will not turn a deaf ear to the needs of States like Louisiana and Georgia which have been cut deeply in a program so essential in the fight against illiteracy.

I say, let us cut the budget, we have got a lot of fat in this budget, but we do not have an ounce of fat in adult education.

I plead with the distinguished chairman from Washington not to cut this kind of program. They may not need it in Washington, and God bless them for it, I hope they do not, I hope they do not have this scourge of illiteracy there, but we do in the deep South. We have got a lot of people who never went to school.

We have a lot of people who cannot read, a lot of black people, a lot of poor people, and they need help. We are asking for the help of this Senate, for the help of those of you who have the power because of your chairmanships or otherwise to say yea and nay to whether they can respond and whether they can be given help to learn to read, to learn to write, to learn to get those basic skills that will equip them to get a job.

I hope the chairman and the Senate will look at this matter in that light.

Mr. MAGNUSON. Mr. President, over the years I have become used to very impassioned pleas such as I heard from the Senator from Louisiana about programs that, on their face, are good. But we have to sit down and listen to a great number of witnesses and try to arrive at a balance.

If the Senator from New Hampshire and I had our way about this thing, we would probably add a great deal to this

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bill. Each one of us has a different project which he is convinced needs more money.

In this particular field, we are not responsible for what the legislative committee did. We have to agree with what is reasonable spending for these programs. If we full-funded every bill that came out of the Labor and Public Welfare Committee, and these other committees, the sheriff would be down at the Treasury Department today hanging a sign. So we have to arrive at some discretion.

We have been pretty generous about these things because they are good programs. No matter what you do with even the new formula in this particular program, some States are going to get less and some are going to get more. It is just like the last amendment we had.

I have no idea how my State fares in this, whether it is down or up. It should not make that much difference to me in making a recommendation on a total national figure.

The Senator from Louisiana came by here awhile ago and said the Appropriations Committee cut this program. We upped it. I will put the figures in the RECORD. We upped it from the budget.

Mr. JOHNSTON. Will the Senator yield?

Mr. MAGNUSON. Just a minute. Let me finish.

We are now \$424 million over the budget request for the supplemental, and \$135 million over the House allowance.

I do not know how far we can go. Everybody comes up with a different program. There were 18 amendments filed here yesterday that would add another \$536 million to the budget.

I know the Labor-HEW chapter to this bill is sensitive. Everybody has their programs. I have mine. I would have liked to have added almost double the amount for some health research projects—almost double—if I had my own way about it.

I have no objection to this program. I think the States should receive—what is it—90 percent of last year's amount?

Mr. JAVITS. Ninety percent of last year.

Mr. MAGNUSON. So this would be a hold-harmless level of \$67.5 million. We provided \$63,319,000. It is a 2-year program.

Mr. McCLELLAN. That is just on one aspect of it. This amendment has two provisions in it.

Mr. MAGNUSON. It is one aspect of it.

There was an error in drafting in the House. The Senate took care of that and added \$1.8 million on top of that. This is the amount of the committee add-on for ethnic heritage studies. We had some argument in the Appropriations Committee about that. Even now I am not absolutely clear on what that program will do. Are they going to teach all the Swedes in the State of Washington about Sweden? Are they going to pick out the Norwegians and tell them to look at the Norwegian history? What does it mean? Everybody ought to have the same kind of education.

Illiteracy is a very important matter. I agree with the Senator. It is very important.

As presently drafted, the amendment would provide \$75 million for adult education in 1975, and \$77 million in 1976. This is the amendment of the Senator. I could not take this amendment no matter how much I believe in the program.

We have not cut this program, nationwide. I think there is an adequate amount.

Some parts of these programs, after we heard all the witnesses, were not doing very well. They were administered badly, although the objectives were good. I am going to oppose this amendment, like I am going to oppose every other amendment. I think we have gone far enough when we put a half billion dollars over the budget in this segment of the supplemental. All of them are very good.

On this one, for the record, the request is \$63 million. We made it \$65,119,000, and we are plus \$1.8 million. We upped it. We did not cut it down.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. MAGNUSON. I yield.

Mr. JOHNSTON. There is apparently some discrepancy in the information which I would like to get clear so that the Senate will well understand.

My information is this: In order to give us 90 percent of what we had last year, you would have to add the amounts as stated in this act, and for Alabama it is \$90,000.

Mr. MAGNUSON. I heard all of those figures.

Mr. JOHNSTON. Is that correct or not?

Mr. MAGNUSON, I do not know how it cuts Alabama or someplace else. I do not have any idea whether it cuts or adds to the State of Washington. But we think the total amount is sufficient.

Mr. JOHNSTON. The total amount may be fine for States that do not need it.

Mr. MAGNUSON. If you are going to argue about formula, then you belong up in the Labor and Public Welfare Committee, not here. We do not set the formula.

Mr. JOHNSTON. I am worried about people who need help, about people who cannot read and cannot write, in my State.

Mr. MAGNUSON. Of course, all people need help in this field. But you are talking about a formula that was passed in the authorizing legislation. We think the total amount is enough. If Alabama loses \$90,000 with the total amount in this program, I think they are getting off pretty well if we are going to do something about Federal expenditures.

Mr. JOHNSTON. I am not talking about ethnic education or some research program, about something that is irrelevant to what is going on. I am talking about reading and writing, about basics.

Mr. MAGNUSON. We have a right-to-read program. We have millions in here for that. The regular Labor-HEW bill is now \$37 billion. I am not going to get too excited about \$90,000 that they lose under a formula that we had nothing to do with. If the Senator wants to change the formula he ought to have a hearing up in the Labor and Public Welfare Committee.

Mr. JOHNSTON. When the bill came through here, the elementary and secondary education bill, and pointed out that under this new formula, which they said was wonderful, our State would get less, I said that cannot be.

This program is essential to us. That is why I introduced the amendment which, on May 16, this Senate adopted. We said they cannot get less than 90 percent.

Mr. MAGNUSON. I want to tell my friend from Louisiana something. There are over 300 line items in the Labor-HEW bill.

To many Senators, if \$1 is cut, it is essential to them. All these programs are good. Overall, we think we have done pretty well in the supplemental. If somebody would lose \$90,000 in a State, I do not know about that. Perhaps the formula is wrong.

Mr. JOHNSTON. \$246,000.

Mr. MAGNUSON. Whatever it is. We are talking now about close to \$65 million for the total program. We think that, overall, this is a pretty good sum in a supplemental bill. If the formula is wrong, that is not the fault of the Senator from Arkansas or the Senator from New Hampshire or myself. The Senator from Louisiana ought to go up to the Labor and Public Welfare Committee and change it.

Mr. JOHNSTON. All I know is that the States that need it most, those that have the highest rates of illiteracy, are getting the deepest cuts.

Mr. MAGNUSON. Then, the Senator ought to change the formula.

Mr. JOHNSTON. I am trying to restore enough to provide 90 percent of what we had last year.

Mr. MAGNUSON. I do not look at this as the only amendment. The thrust of the amendment of the Senator from Louisiana is to change the formula. The Senator is trying to put it on an appropriation bill.

Mr. JOHNSTON. It would not change the formula.

Mr. MAGNUSON. The thrust of it would change the formula. I do not have any objection to this program. What are we going to do—accept every amendment a Senator from one State wants because of something he does not like? I have no idea what this does to the State of Washington, and I do not think it is important to me to consider that. I am to consider the overall situation. We furnish adequate money nationally. The thrust of the Senator's amendment changes the formula. I will have to oppose it, reluctantly.

I have been accused of being a big spender on this bill. I want to tell the Senator from Louisiana that before he came to the Senate, I was vetoed five times on this bill, and I do not want to go through that again. People went around and said there are too many Federal expenditures, and some of the people who will be Members of the new Congress ran on that issue. But when it comes to their little project or something like this—they do not think there is enough. We are up now a half billion dollars over the budget in a supplemental, and we have not even finished the regular bill.

The White House is going to be looking at both bills. Both bills are going to come down to the White House at the same time, not just one. We are now over the budget \$500 million, and \$134 million over the House, and we thought this was adequate.

I am going to oppose it for a general reason. I am not against this program. As a matter of fact, I was a cosponsor of the legislation that originated the appropriation. I am hopeful that the Senate will hold the line on this a little.

How much does the State of Louisiana lose?

Mr. JOHNSTON. \$246,000.

Mr. MAGNUSON. And some States gain.

Mr. JOHNSTON. I am sure some States gain—probably those that do not need it.

Mr. MAGNUSON. This is the same argument we get into on title I, on impacted aid, and so forth. We just got through with the list.

Mr. JOHNSTON. How the committee could appropriate money for ethnic studies, or whatever it was, and cut adult education, I do not know. It totally escapes me.

Mr. MAGNUSON. We did not cut it. We allowed the full amount of the budget, plus.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. COTTON. Mr. President, I am fairly in sympathy with everything the distinguished Senator from Louisiana has said about the \$1.8 million for this ethnic heritage program. I would vote for an amendment to change that and put it into the fund, to go to the States to take care of adult education, without that restriction. I think restrictions such as that waste the money. However, it is not our fault.

There has been a tremendous migration from the Southern States into the Northern States. That is why up in Boston we are fighting over civil rights, when it used to be down in Alabama. There has been a tremendous migration.

If the need for adult education has increased in a State, it is bound to affect the State from which some of that population has gone.

I ask this of the Senator, and I do not ask it in a hostile way. I am just seeking information. Does the legislature of the State of Louisiana, the State he represents, appropriate anything for adult education?

Mr. JOHNSTON. I believe they appropriate considerably. I will have to check that, but I think they appropriate considerably for adult education.

Mr. COTTON. If we increase this bill—and I must go along with my chairman, the Senator from Washington—I would like to vote for an amendment to take that \$1.8 million for ethnic history or ethnic studies and put it right into the pot for adult education, without that restriction; 15 percent comes off the top or is set aside for teacher training, and I suppose that is necessary. That is one reason why his State does not have available as much for actual classroom studies.

As for increasing the overall amount, if we do not hold the line, the Senator's State is not going to gain anything. There will be a veto of this legislation. There may well have to be a continuing resolution, and next year the Senate will start all over again, taking care of the last year. That cannot take place, therefore I cannot vote for the amendment.

If the Senator will offer an amendment to cut out that category, leave the money but cut out that designation of \$1.8 million for ethnic studies, and put that into the pot, to go for adult education, distributed among the States, he would gain something and he would not lose a thing. We would still have the overall amount intact.

Mr. JOHNSTON. Mr. President, I am about ready to yield back the remainder of my time.

The point has been made. The point is very simple. We are in a time of austerity, when we want to stop inflation by stopping spending. The American people insist on that, and I well understand the feeling and the desire of the chairman to hold the line on spending.

However, I ask the Senator simply to think of one thing: Is it fair, does it make any sense, to take those States that have the highest rates of illiteracy and take the one program that offers a little hope, offers a little chance for these people to learn to read and write and to break the terrible scourge of illiteracy? Is that the way to fight inflation, when it is causing terrible unemployment? We have people who cannot get jobs because they cannot read or write. We are trying to give them a little hope, not by increasing the budget but by giving them 90 percent of what they had last year. That is all I am asking.

Mr. MAGNUSON. But that increases the budget, and we are way over the budget now.

I agree that some of these things are not fair, but we have to deal with the facts of life here, money-wise.

If the formula is wrong, I would be the first one to vote to change it. I think this program is good, but I do not think there is any great cut coming in it for anybody.

Mr. JOHNSTON. \$246,000 in Louisiana.

Mr. MAGNUSON. Many of the grants are processed by what the local contribution is, as the Senator from New Hampshire has said. I do not have the figures, but I do not believe there is very much by the legislature of the State of Louisiana.

Mr. JOHNSTON. I cannot respond to that, because I do not have the figures.

Mr. MAGNUSON. It probably should be more.

Mr. JOHNSTON. The information furnished to me by the staff is that my State is cut \$246,000. If the Senator has information that that is not correct, I will research it and check it out.

Mr. MAGNUSON. I do not think that \$246,000 is going to wreck the program if we have \$64 million in the bill. There is still going to be a program.

Mr. JOHNSTON. We shall still have a program. But it will mean that a lot of people—

Mr. MAGNUSON. Is the Senator not going to have a program? Maybe there will be a good one going there.

Mr. JOHNSTON. It will mean that some hundreds of thousands of people will not be able to get service in the program.

Mr. MAGNUSON. I think that the Senator's figures are quite large on that. I do not think that we need to expect that at all. Some of the programs need to have a look taken at them, and some of the expenditures need to be cut down. I know that in my State, they do.

Mr. JOHNSTON. The Senator will admit that a cut of \$200,000 is a tremendous cut in adult education in one State. Will he not?

Mr. MAGNUSON. It is not a tremendous cut in the program. The percentage is not great.

I shall put in the RECORD how much we are going to spend in Louisiana. What the Senator is talking about—and I do not blame him—he does not want to be one of those that is cut. But the formula is not our business; that is the business of the legislative committee.

Mr. President, I yield back the remainder of my time.

Mr. COTTON. Before the Senator yields, if I may—

Mr. MAGNUSON. If the Senator will wait just a moment, may I say this? According to HEW records Louisiana will get \$1,246,000 under the present bill.

Mr. JOHNSTON. That will be about a 20 to 25 percent cut.

Mr. MAGNUSON. And 90 percent hold-harmless would be \$1,325,000.

Mr. JOHNSTON. But it is mandated that they have had to take 15 percent and take it away from adult education and put it in another program of teacher training.

Mr. MAGNUSON. But the difference is, from the \$1,246,000 to 90 percent, which it did not have to begin with, that is \$1,325,000. That difference is the exact figure, not \$240,000.

Mr. JOHNSTON. Then we have to take 15 percent off that because it is a new program, or we have to take that away from adult education and put it in teacher training, whatever it is.

Mr. COTTON. If the Senator will yield, this 15 percent is not being taken away from adult education and put in another program. It is to train teachers for adult education.

Mr. JOHNSTON. Right, and it takes it away and puts it in a training program, rather than the substantive program.

Mr. COTTON. The program will not work at all if we do not have competent teachers to teach in adult education.

Mr. JOHNSTON. It effectively amounts to a cut by mandating use of it.

Mr. MAGNUSON. The Senator is adding on figures that do not belong. It is not the intent of the law to add 15 percent to every appropriation bill in this field for adult education. The 15 percent requirement is in the law. If the Senator does not like that amendment, and maybe I did not—the Senator voted for it and I voted for it—then he ought to go up to the Labor and Public Welfare Committee to get it changed.

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Mr. JOHNSTON. Maybe the Senator did. I voted to hold onto my substantive—

Mr. MAGNUSON. It is the law. Maybe we have to do that, train teachers. That is the problem with the program. They had the money, they went ahead and spent it, and they did not have anybody to supervise it, did not have anybody to teach.

Mr. JOHNSTON. The practicality is that we were presented with this formula, and my people back home came to me and said, "Look, this is a big cut."

I went to the Education Committee and said, "How do we fight this?" They said, "Put in the same old 'hold harmless' language you have had for the last 2 or 3 years; that is the way to fight it."

So I put in the amendment. The Senator says, "Yes, that is a good idea." So he accepted it.

Then they come around and cut the bill so that the amendment does not mean anything. I think that in a sense, it is the Senate as an institution breaking faith with our State. I do not mean to say that any person, individually, has done that, but that is what it amounts to.

I go back home and talk to my people in adult education, who think that this program is awfully important. I say look, one committee did this, another committee did that, it is nobody's fault, it is just one of these things that happens.

They look at us with disbelief. Do they say the U.S. Senate is not responsible for this thing?

Mr. MAGNUSON. Well, we are responsible for all kinds of things, and I wish there were an open door down at the Treasury, but there is not. There are 316 line items in this bill. They are all good programs.

I want the Record to be clear. The 15 percent, we had nothing to do with. Congress voted that. That is for training for teachers. The actual reduction, even if we use the formula that the Senator is trying to change, is actually, for the record, \$79,000.

Mr. JOHNSTON. Well, that is fine if we do not include the 15 percent that has been stated.

Mr. MAGNUSON. I just checked with the staff. If we restored 90 percent to all of the States that are involved, the "hold harmless" principle, it would be \$4,181,000.

Mr. JOHNSTON. Will the Senator do that?

Mr. MAGNUSON. Well, that would be little better than what the Senator wants, the \$28 million. I cannot speak for myself.

Mr. JOHNSTON. Will the distinguished Senator from New Hampshire—

Mr. MAGNUSON. I would be willing, if the Senator from New Hampshire and the Senator from Arkansas would, to take the \$4,181,000 and take it to conference. That would put people back to the "hold harmless" principle.

Mr. McCLELLAN. Mr. President, I would be willing to do that. I would be willing to take that amount to conference. What we can do there, I do not know.

Mr. COTTON. That means approximately \$8 million, because it is funded for 2 years.

Mr. MAGNUSON. This is for this year and for next year since we are going to forward fund the program. We cannot include that 15 percent. That is the law which the Senator voted for, and which I voted for. I thought it was good to train teachers, because we found that in some of the adult education programs, there was a waste of money that should not be; they did not have proper supervision and qualified teachers. The Senator and I agree with that. That is why we had the bill. But that is the law.

Actually, if this goes through, I will admit the Senator is out \$79,000.

Mr. JOHNSTON. Would the Senator restore the \$79,000?

Mr. MAGNUSON. \$79,000?

Mr. JOHNSTON. Would the Senator agree to go that far?

Mr. MAGNUSON. Would I what?

Mr. JOHNSTON. Would the Senator agree to go as far as restoring the \$79,000?

Mr. MAGNUSON. I cannot accept that for one State.

Mr. JOHNSTON. I mean to amend the program.

The Senator says that the 15 percent should not be in the bill. I believe that it should, because it comes right out of the adult education program. But let us assume that the 15 percent ought to be borne by the States, or not paid. Will the Senator at least give us that percent of the substantive program?

Mr. McCLELLAN. Take it for this year's appropriation and let us see. That can be worked out later. I do not know what they will do in conference, but that was the intent, to try to hold them harmless. That is the purpose of it, and that is the provision.

Mr. MAGNUSON. And it is true that most of the States that have the most illiteracy were the ones that apparently are going to be cut—\$79,000 in his State and other States that get that cut.

Mr. McCLELLAN. I think that is the best we can do with it, and if we do that well, we shall be doing well. If the Senator wants to take it to conference—

Mr. MAGNUSON. If the Senator will modify his amendment to \$8,362,000, that will activate the "hold harmless" for this year and next year.

Mr. JOHNSTON. Mr. President, I move to modify my amendment by reflecting \$4,181,000 added on for—that will be for fiscal year 1975 and 1976?

Mr. MAGNUSON. Yes.

Mr. JOHNSTON. We shall provide the exact language on the amendment, but it will reflect \$4,181,000 increase in adult education for this year.

The PRESIDING OFFICER (Mr. ERVIN). The Senator has the right to modify his amendment, but I suggest that the Senator send the amendment to the desk in writing.

Mr. JOHNSTON. Can the staff have that ready?

Mr. MAGNUSON. Yes, they can do it. We shall send that to the desk with those figures.

The PRESIDING OFFICER. The amendment is so modified.

Mr. MAGNUSON. I will be glad, and I know all of us will, to take a look at this formula and this whole matter of this 15 percent next year, when we get ready to do this. I think it should be up to 90 percent, personally.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Washington, the distinguished Senator from New Hampshire, and the distinguished Senator from Arkansas for helping us on this critically important matter. It is not as much as we feel is necessary in the program, but if we have a look at the 15 percent next year, that will give us a chance to see how that is working.

The \$4 million additional will mean everything to this program in my State and in other States like it.

I yield back the remainder of my time.

Mr. COTTON. Mr. President, as far as the Senator from New Hampshire is concerned, he is certainly willing to go along with the chairman of the full committee and the chairman of the subcommittee to make this compromise agreement. I am glad to do it because I am glad to be of some assistance to the distinguished Senator from Louisiana, for whom I have a very high regard.

I think, however, that there are a couple of things this Record should show.

In the first place, it is all right to say that the Senate did not keep faith with the people of Louisiana, the people of Alabama, or the people of these other States, because, on the recommendation of the Legislative Committee on Labor and Public Welfare, a new formula was created to hold harmless each State. The great difficulty, and the reason we have lost control of this budget, is this system of legislative committees authorizing all these things, and it goes into the newspapers, and the people of the country read that Congress has just authorized so much for education, so much for the handicapped, so much for cancer, so much for this, that, and the other, and the sums are utterly impossible. Those who vote for them on the floor of the Senate and the House of Representatives know that they are impossible. They know that if the Appropriations Committee went on and appropriated all those sums, as has been so well said by the distinguished Senator from Washington, we would be bankrupt in no time at all.

The only thing that troubles me about even this compromise is that, because the legislative committee decided and the Senate went ahead and passed it, as just a part of the very long and complicated bill, they decided that even though half of the illiterate people from one State moved up into New York, Illinois, or somewhere else, we would have to increase the money for them in the State to which they migrated, but we have got to continue to pay the same amount or nearly the same amount to the State from which they migrated, and where the problem presumably is no longer quite as severe.

It is not breaking faith with any State when the Appropriations Committee comes in with appropriation bills and does not do everything that the legisla-

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tive committee has authorized. Furthermore, the time has come when some of these matters must be faced squarely. Look at the problem that we have in this committee. We have not only education, we have health, and for years we have faced this situation of dialysis for diseased kidneys. We have had to sit down and face the grim specter before our committee that even now, in the more sparsely populated parts of this country, a doctor has to make the decision whether this man shall live and that man shall die because we have not been able to produce the money to place within the reach of every afflicted person in this country the dialysis necessary to keep him alive.

When you think of something as gruesome as that—and we have faced that; we have gained on it, and thank God we nearly have it licked, but not completely. Having faced that, I cannot shed so many tears over matters such as, important as it is, the matter of adult education. We in the committee have had to face those decisions and balance them all through the years.

I do not know what the State debt—and I do not want to personalize this and make it any kind of attack on my friend from Louisiana or his State. I do not know what the State debt of Louisiana is. I do not know what the State debt of Massachusetts is. But I would almost be willing to state blindly that it is infinitesimal compared with the Federal debt, a portion of which has to be met by the taxpayers of Louisiana, the taxpayers of Massachusetts, and the taxpayers of Illinois and all of the other States.

We had to produce \$35 billion this year just to pay the interest on our debt, and that \$35 billion never provided a hospital bed for anybody. It did not do a thing for the veterans. It did not do a thing for adult education. It did not do a thing for cancer, or for kidney dialysis. It did not do a single thing for any of the great crying needs of this country. It just goes into thin space, because of our prodigality in past years.

Only 44 percent of the Federal spending in this country now ever reaches the Appropriations Committee because of these legislative bills that have conferred obligatory authority and bypassed the Appropriations Committee. That is what we are up against. The only thing that worries me about this \$4 million here—it is not very much, and I am delighted to join in that solution to help the distinguished Senator; I admire the fight he has made for his people and for his State—but we have 17 some amendments. If this is going to set a precedent, and open the floodgates, before we get through with this supplemental appropriation bill, we will have that portion that has to do with health, education, and welfare up so high that it will come back with a veto just as sure as there is a God in Heaven, and we will find we have reached too far and lost it all. There will be another continuing resolution; and this business of spending money this year on the basis of last fiscal year is a terrible thing, because it perpetuates programs that have been proven ineffectual, and cuts off progress and new programs that would be more effectual.

Now, I agree to the \$4 million. I hope it will not be taken as a precedent for us to compromise and take to conference every additional amount that some very earnest and sincere Senator comes in with.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back? The question is on agreeing to the amendment of the Senator from Louisiana, as modified (putting the question).

The amendment as modified was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. CHILES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 13, between lines 17 and 18, insert the following:

For carrying out an emergency energy program for older Americans pursuant to title III of the Older Americans Act of 1965, as amended, \$10,000,000.

Mr. CHILES. Mr. President, I have introduced this amendment to the supplemental appropriations bill with some reluctance, as I feel that present economic conditions demand every effort to hold the line on Federal spending, and this means controlling small budget items, as well as the large.

However, the amendment I have proposed, calling for an appropriation of \$10 million, is designed to deal with an emergency situation to prevent or relieve suffering by elderly Americans and, I think, it would prove a most wise and prudent expenditure of Federal dollars.

Mr. President, I also point out that this is an amendment which I took to the subcommittee dealing with the supplemental appropriations bill. It came up late in the day. The subcommittee was tired and, at that time, I was told to bring this amendment to the floor.

I was going to propose this amendment to the full Committee on Appropriations but, again, because of our inability to get a quorum, it turned out that the meeting of the subcommittee was, in effect, the meeting of the full committee in regard to the presentation of the supplemental budget.

I want to make clear that I did attempt to bring this before the Senate committee at its hearings so that it would have an opportunity to consider it rather than to present this amendment on the floor.

This amendment, the need for this money, comes to my attention from hearings that I held as a member of the special Committee on Aging. We held two days of hearings with a number of witnesses from the administration trying to find out what kind of programs or procedures had been put into effect or were in the planning stage for the winter, and how these might affect our elderly citizens, those who are retired and living on fixed incomes.

We found that there really were no plans and there were no procedures. The

only plan seemed to be that we just pray for a mild winter.

Now we see that every forecast is contrary to that. Every forecast is that this is going to be a most severe winter. We had an emergency energy situation last winter in which many of our elderly citizens were in a terrible plight, and I feel that is again going to be the case this winter.

We know what has happened with respect to the cost of fuel oil. In the last two years home heating fuel oil has increased in cost by 88 percent. This represents an increase of more than four and a half times the overall rise in the Consumer Price Index.

Electricity costs have increased by 26 percent during the same period and in my State they are up over 100 percent. And yet there are really no procedures now for trying to help these older people; to prevent their electricity from being cut off; to keep them from suffering when they have run out of fuel and they have no funds.

During the Committee on Aging hearings, we tried to find out who was really responsible.

FEA says, "Well, we really do not have that role or that authority." The Commission on Aging said, "We are not sure that that is our responsibility."

But now we find that the Office of Human Development, Administration on Aging has sent instructions to the State Agencies on Aging that they will amend their State plans on Aging for fiscal year 1975 and that they will come up with a specific plan of how they are going to deal with the impact of energy shortages and costs on older persons. So we know a program will be implemented by the States. The question is where are the funds going to come from.

If an energy program for the elderly is undertaken by the States, as they have been instructed, and yet no funds are provided, what will happen to the other projects and programs for the elderly. They will suffer. Granted, \$10 million spread among 50 States is not going to do a lot. But I think it would help in giving some impetus, to the required program, and it would show that we are not totally unthinking or unfeeling about the plight of the elderly and the kind of problems they are going to experience this winter.

It would also show the administration that we expect accomplishments from this program; that we expect effective planning and procedures, and not a posture of sitting back and saying "We hope there will be a mild winter."

Mr. President, I feel that if we do not do something we are going to regret it very much. We will regret it if we have a very severe winter, and we have experiences like we had last year in which some of our elderly people were actually found frozen to death in their homes. If we have people whose electricity is cut off, whose oil or gas is not delivered to them because they have no funds, and if there is no program for trying to provide some way of taking care of these people then I think it would be something that we would severely regret. It is for that reason, that I propose the amendment.

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Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. McCLELLAN. To whom would this \$10 million be appropriated?

Mr. CHILES. The \$10 million would be appropriated under title III, State and community programs for aging, of the Older Americans Act, as amended.

The funds would be provided to the State and area agencies on aging to carry out the action program on energy as required by the Administration on Aging.

Mr. McCLELLAN. Who would administer the funds? How would they be allocated to the different States? How would they be administered?

Mr. CHILES. The Administration on Aging would administer the funds, and the funds would go through the State agencies on aging.

Mr. McCLELLAN. What is the formula for allocating it to each State?

Mr. CHILES. It would be on the basis of population of persons 60 and over.

Mr. McCLELLAN. Are there some States where the need would not be as great, States in the warmer climate, as opposed to States of more severe climate? I am trying to understand it.

I think everybody wants to do something to relieve distress. But does each individual old couple living here who are not able to pay their gas bill or to get coal or something, are they people who have to file a claim or how is it administered? I am trying to find out.

Mr. CHILES. No, sir; there would not be funds to actually meet energy costs.

What the Administration on Aging has required is that every State now start coming up with a plan that would indicate how they will handle those kinds of requests; whether they will try to get the United Funds to come in and help, whether they will try to get the Salvation Army, how they will proceed with the electric companies in respect to the termination of power for these elderly people; the \$10 million proposed by this amendment would help in implementing those plans among the 50 States.

This is not funding to buy any fuel oil. There just is not that amount of money, and there is no way that is going to work.

Mr. McCLELLAN. I realize it is not, but I am trying to understand how will they be helped by it, how will they be helped, those who are going to need it.

Mr. CHILES. Specifically, It would fund State agencies on aging to: First, develop agreements with State allocation offices in the event of shortages to provide for meeting the needs of older people; second, to make representations before public utility commissions, to encourage equitable utility rates for the elderly, and to develop procedures to prevent the arbitrary termination of services for older people; third, to develop a program of assistance and education for the winterizing of older people's homes; fourth, to develop a program to coordinate efforts to meet the special energy requirements of the elderly during emergency situations.

Those are the things I would hope this amount of money would help formulate.

Mr. McCLELLAN. What it appears we are doing is appropriate money without any program, without any authority, without any constituted source of responsibility for the administration of it.

Mr. CHILES. No, Mr. President.

Mr. McCLELLAN. I can understand this general idea may have some merit, but—

Mr. CHILES. Mr. President, that is not correct because we do have authorization under title III. The State agencies on aging are in fact being required under the law to implement such a program.

Mr. McCLELLAN. What agency of the State?

What I read here, title 3 to which the Senator referred, it says:

"Sec. 301. It is the purpose of this title to encourage and assist State and local agencies to concentrate resources in order to develop greater capacity and foster the development of comprehensive and coordinated service systems to serve older persons by entering into new cooperative arrangements with each other and with providers of social services for planning for the provisions of, and providing, social services and, where necessary, to reorganize or reassess functions, in order to—

"(1) secure and maintain maximum independence and dignity in a home environment for older persons capable of self-care with appropriate supportive services; and

"(2) remove individual and social barriers to economic and personal independence for older persons.

I do not see anything in there that authorizes the distribution of fuel or where they would acquire the fuel for them, or anything.

It is something in general terms, some generalities there that may go further than I have read.

Mr. CHILES. Well, if I could, I would like to read to the chairman and put in the RECORD a program instruction from the Office of Human Development, Administration on Aging, dated October 4, 1974. This is directed to the State agencies administering plans under title 3 and title 7 of the Older Americans Act of 1965, as amended, and the subject of it is additional instructions concerning State plans on aging for fiscal year 1975.

Under this, each of the State agencies are directed to provide an action program on older persons and the energy crisis.

It states:

The continuing problems experienced because of the shortage of energy resources have an extremely severe impact on older persons. This problem is aggravated by the current inflationary situation. State Agencies on Aging have a responsibility under their legislative mandate to take positive actions in response to this critical situation so that the burden on older persons may be alleviated. The coming winter months promise to create devastating hardships on the older population unless we intervene now. In order for approval to be granted to the 1975 State Plans on Aging, the State Agencies must provide assurance in their State Plans that they will—

1. Develop an agreement with the State Allocation Office, in the event of shortages, that will provide for reorganizing and dealing with the special needs of older persons;

2. Make representations before the Public Utility Commission designed to lead to the development of regulations that would insure equitable utility rates for older persons;

3. Work for the development of an agreement with the Public Service Commission to insure that services will not be arbitrarily cut off to older persons unable to pay for such services;

4. Develop a program, utilizing existing public and private resources to assist in the insulation of older persons' homes; and

5. Develop a program, utilizing existing public and private resources designed to provide older persons and volunteers who serve older persons with additional resources for transportation in order to offset rising transportation costs.

So it has been directed that each State will amend their State plan and carry out such a program.

What I am saying is that we have ordered them to do this without providing any kind of funds for that purpose. Either they are either going to take from existing programs or they are not going to fully implement the energy program.

I think it is so necessary that we provide some kind of help for elderly people with the energy problem, and that is what I am trying to do with this amendment.

Mr. MAGNUSON. Will the Senator yield?

Mr. CHILES. I yield to the Senator.

Mr. MAGNUSON. Mr. President, this program sounds good, but the Senator from Florida just pointed out what is wrong with it at the end of his remarks.

This is a matter which the States ought to be doing anyway. In most States this would come under the social rehabilitation and the welfare program, and we have hundreds of millions of dollars in the bill for that. We do not need \$10 million more for those States to effect plans. All States ought to be doing that anyway, and most of them, I imagine, do have plans.

Now, I do not know why the Federal Government should get into the act when we are giving them hundreds, hundreds of millions through the social rehabilitation and the welfare programs and the social programs in the State. I am sure Florida gets its share. That is part of the programs they should be doing anyhow and they have plenty of money to do it.

As a matter of fact, in some cases, the social services in some States are over-supplied with money. That is what is wrong with some of them; they have so much administration that people do not get the things they should get and there is a welfare surplus that they are not spending. They did not estimate that correctly, and there is a surplus of about \$1.2 billion that has not been spent.

So here is another program. The amendment of the Senator from Florida starts a new program on top of it. The States do not need any direct help for \$10 million to do this. They can do it anyway. They have got money to do it.

Mr. CHILES. I wonder if the chairman understands that the Older Americans Act is not a welfare program.

Mr. MAGNUSON. No, but to do this is part of the social services that can be done in the States.

Mr. CHILES. No, it is not.

Mr. MAGNUSON. I know what the—

Mr. CHILES. It is part of human development.

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Mr. MAGNUSON. Let me finish.

It is part of it; there is plenty of money there.

Now, this amendment was considered by the subcommittee and was turned down. The Senator did appear and pressed his amendment, which is somewhat unusual, which is usually when these amendments come on the floor without anybody coming down talking about them, but—

Mr. CHILES. Mr. President—

Mr. MAGNUSON. Let me finish. The Senator will have all the time he wants.

Mr. CHILES. Yes, but I want to correct the Senator.

The amendment was not considered by the subcommittee and turned down. The subcommittee told me to come to the floor with the amendment. The subcommittee did not consider the amendment.

Mr. MAGNUSON. All right, we did not have a record vote, a rollcall vote on it, but the Senator got the word, did he not, down there in the subcommittee?

Go to the full committee, and the Senator did not go there.

Mr. CHILES. No, sir, because the subcommittee's action took the place of the full committee, so I did not have the opportunity to go there.

Mr. MAGNUSON. All right, let me finish.

Here is an amendment that is not necessary at all for the purposes. My State should be doing this and is doing it now.

They do not need money from the Federal Government. They get plenty under the broad purposes of the billion dollar social services program. Here is an amendment that has no budget request, no hearings, no requests to testify, no regulations to administer, and it duplicates and overlaps the OEO programs.

It is a worthy purpose.

I do not know what my State would do with this. Would it set up a new division when they should be doing it now? If they are not doing it, what are they doing with their share of the hundreds of millions of dollars from social services which fits into this thing.

I know this being proposed under the Older Americans Act, I want to say a person can get just as cold when he is 59 as he can when he is 61. The Senator knows that, does he not?

This is for people who cannot afford it. I do not know what we are going to do. We cannot subsidize everything.

The Senator's proposal is for making plans. My suggestion is the plans should be done by the States now. If they are not doing that, they are not carrying out their purposes.

The proposal is intended to develop agreements with the State petroleum allocation offices for meeting needs of elderly persons. Well, they ought to be doing that now in the State office. They do not need Federal funds to march down to the capital and do that.

It encourages State public utility commissions. My State already held about 3 months of hearings on this under the State appropriations, not using any Federal funds.

Education to winterize older persons' homes? I guess that is good, but the State ought to be doing that. What is the purpose of getting the Federal Government into this?

If we start this, what is going to happen, without any program, without any hearings, and everything else? The next thing is there will be a subsidy to take care of the extra fuel costs. I might be for that, but I can get all the information I need from my State as to whether that is necessary or not. They do not need to have a piece of \$10 million on top of hundreds of millions of dollars that are directed toward these goals.

The Older Americans Act supplemented all of these programs. It happened to be directed more specifically to the problems of the older Americans.

As I said to the Senator from Louisiana, there are 316 items in this bill. I think that many of the social service ones could contribute to exactly what the Senator from Florida wants to do under the broad objectives of the program.

So I am going to have to oppose this for the reasons I have stated: There was no budget request, no hearings, no requests to testify, no regulations to administer, it duplicates and overlaps OEO and a score of other programs, and the States should be doing this themselves. They have money to do it.

Mr. CHILES. Mr. President, I will not belabor the point. The distinguished chairman makes a very good philosophical argument as to the fact that perhaps the States should be doing things like this themselves. I might tend to buy that. I did not pass the Older Americans Act, it passed before I got here.

Perhaps, everything that the Older Americans Act is doing the States could do for themselves. Everything that we are talking about in this bill we could say the States should be doing for themselves. Why have a Department of HEW? Let the States handle that for themselves.

That same kind of argument just could cut all the way down.

But we have an Older Americans Act. Under the Older Americans Act, the States are required if they want to get any funds under title II, to come up with this plan. But you have not given them any wherewithal to carry out the program.

The only thing I am saying is if you are going to give them a requirement, then you ought to give them the wherewithal to do it.

Mr. MAGNUSON. They do not need any wherewithal to come up with a plan.

Mr. CHILES. I yield back the remainder of my time.

Mr. MAGNUSON. Sometimes there seems to be more planners in social services than there are recipients of the act.

The PRESIDING OFFICER. Does the Senator from Washington yield back the remainder of his time? Is all time yielded back?

Mr. MAGNUSON. I will yield back the remainder of my time, yes.

The PRESIDING OFFICER. All time having been yielded back, the question is

on agreeing to the amendment of the Senator from Florida.

The amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. McCLELLAN. Third reading.

Mr. MAGNUSON. I say to my distinguished chairman I understand that two or three Senators are on their way, I hope, to offer amendments.

Mr. McCLELLAN. I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HASKELL). Without objection, it is so ordered.

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ROTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

Sec. 204. None of the funds appropriated by this or any other Act which are available during the fiscal year 1975 for travel expenses, including subsistence allowances, of Government officers and employees may be obligated, after the date of the enactment of this Act, at a rate which exceeds 75 percent of the rate at which amounts for such expenses were obligated during the fiscal year 1974.

Mr. ROTH. Mr. President, on behalf of 13 of my distinguished colleagues and myself, I am submitting an amendment to reduce the amount of Federal funds spent on travel and transportation.

The cosponsors are Senators McCLELLAN, BAYH, BEALL, BIDEN, BROCK, HARRY F. BYRD, JR., CASE, DOMINICK, METZENBAUM, WILLIAM L. SCOTT, STEVENSON, TAFT, and TUNNEY.

Specifically, this amendment would prohibit the Federal Government from expending more than 75 percent of the amount expended in fiscal year 1974 for the travel and transportation of persons. A recent examination of the Budget by my staff and the GAO revealed that the Federal Government will spend almost \$2 billion this fiscal year on travel and transportation to out-of-town conferences, meetings, and other employee transportation.

With inflation being fed by excessive Federal spending and with the vital need to conserve energy, there is absolutely no justification for the Federal Government to spend such sums on travel expenses.

This 25 percent reduction in Federal travel expenses would save nearly \$400 million in this year's budget and untold millions of dollars in energy costs. Such a move would not only set an example for the concerned people of this Nation, it would provide additional fuel that could

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be used in the private sector of the economy and save thousands of jobs.

Inflation and the need to save energy have caused millions of Americans to cut back or cancel their travel plans. Virtually every business and private organization has been forced to reduce its travel budget to save fuel and money. Yet the Federal Government has made no effort to cut back on its travel budget.

Every Federal department and agency has some fat in its travel budget that can be cut to save fuel and money, including the Defense Department. I wish to emphasize that this travel limitation is not intended to apply to troop movements. Since last December, the Defense Department has been the Government's

number one energy saver by cutting its fuel consumption by 31 percent. I believe the Department can follow suit and trim some fat out of its travel budget without jeopardizing our national security.

Wisely, the President has called on all Americans to conserve fuel and budget their money wisely. But if the Federal Government expects the American people to cut energy consumption and sacrifice in the battle against inflation, the Federal Government must provide the leadership.

A 25 percent cut in travel expenditures would save nearly a half billion dollars, conserve fuel, and demonstrate to the American people that the Federal Government is serious in its efforts to lead this country through a very difficult period and win the battle against inflation.

Mr. President, I yield back the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. MANSFIELD. On both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I am empowered, on behalf of the chairman of the committee, to accept the amendment, which I think is an excellent one.

Mr. ROTH. I thank the majority leader and the chairman.

Mr. MANSFIELD. I yield back the balance of my time.

Mr. ROTH. I yield back the balance of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. HATHAWAY. Mr. President, I call up my amendment No. 1979.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 13, between lines 8 and 9, insert the following:

Funds appropriated under "Occupational, Vocational, and Adult Education" in the Departments of Labor and Health, Education, and Welfare Appropriations Act, 1975 for carrying out career education under the Cooperative Research Act shall be available only to carry out the provisions of section 406 of Public Law 93-380.

Mr. HATHAWAY. Mr. President, one of the most promising movements in American education is the development of what is called career education. This is the effort to bring the worlds of education and work into closer contact so as to make education more relevant to successful participation in the society at large.

For several years now, the administration has requested funds for the development of this concept on the Federal level, but has been turned down, at least in part, because of a lack of direct legislative authority for such a program.

Finally, in this year's Labor-HEW appropriation bill, both the House and Senate appropriated \$10 million for this purpose under the general authority of the Cooperative Research Act. At the same time this was taking place, we were putting the finishing touches on what is now 93-380, the Education Act of 1974. Contained in that act is a provision, section 406, directly addressed to the career education question.

This amendment which I am offering would simply require the Department to conduct its career education activities under the new authority specifically provided for this purpose in Public Law 93-380, rather than the more general authority of the Cooperative Research Act.

This does not add a penny to the bill and will have the effect of seeing to it that these funds will be expended according to the most specific and most recent expression of congressional intent.

Parenthetically, Mr. President, I would like to take this opportunity to clear up one question with regard to the intention of section 406 which has recently arisen. Although the emphasis in this section is on career education programs in grades K-12, the bill and particularly the Senate committee report make clear that grants under this section are available to institutions of postsecondary education as well as elementary and secondary schools. We particularly did not want to discourage comprehensive State programs which might include a postsecondary career education component.

I urge the adoption of the amendment.

I understand that the Senator from Washington (Mr. MAGNUSON), who is not present, is willing to accept the amendment. As I mentioned, it does not involve any additional expenditure whatsoever.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask

unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

**ORDER TO HOLD H.R. 16757
AT DESK**

Mr. MANSFIELD. Mr. President, I ask unanimous consent that H.R. 16757, to extend the Emergency Petroleum Allocation Act of 1973 until August 31, 1975, when it is received in the Senate, be held at the desk temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

**SUPPLEMENTAL APPROPRIATIONS,
1975**

The Senate continued with the consideration of the bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

Mr. MANSFIELD. Mr. President, I am informed that the distinguished chairman of the subcommittee, the Senator from Washington (Mr. MAGNUSON), has indicated that he is agreeable to this amendment by the distinguished Senator from Maine, and I therefore urge its adoption.

I yield back the remainder of my time.

Mr. HATHAWAY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 11, line 10 after the period, insert the following:

Provided, That the Commonwealth of Puerto Rico shall receive grants for the current fiscal year pursuant to sections 121, 122, and 123 of the Elementary and Secondary Education Act of 1965 (as such Act exists on the date of enactment of this Act) in amounts equal to not less than the amounts received by the Commonwealth of Puerto Rico for the fiscal year ending June 30, 1974, pursuant to sections 103(a)(5), 103(a)(6), and 103(a)(7), respectively, of the Elementary and Secondary Education Act of 1965 (as such Act existed immediately before the effective date of the amendments made to title I of such Act by the Education Amendments of 1974).

Mr. HATHAWAY. Mr. President, this amendment likewise would not add any money to the supplemental appropriations bill. Rather, its purpose is to make a technical change which would "hold harmless" to last year's level the amount which Puerto Rico receives for State agency programs under title I of the Elementary and Secondary Education Act.

The amendment would merely provide last year's level of funding in Puerto Rico for title I State agency programs for handicapped children, neglected and

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delinquent children, and children in adult correctional institutions.

I have discussed this amendment with the chairman of the HEW subcommittee, and I understand that he is in agreement with it.

I reserve the remainder of my time.

Mr. MANSFIELD. Mr. President, I am informed that this amendment is likewise satisfactory to the chairman of the committee, and I yield back the remainder of my time.

Mr. HATHAWAY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, I call up my printed amendment No. 1980 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 10, line 21, strike the figure "\$120,000,000" and insert in lieu thereof "\$146,393,000".

On page 11, line 3, strike the figure "\$4,351,043,000" and insert in lieu thereof "\$4,377,436,000".

Mr. HATHAWAY. Mr. President, this amendment would continue funding at the present level for title III of the Elementary and Secondary Education Act. This title provides for grants of limited duration to State and local educational agencies for the purpose of stimulating innovation in education methods. The committee recommendation for funding is \$120 million—which is \$26 million below this year's level and the President's budget request. My amendment would restore the cuts made by the committee and leave the program at the present amount—\$146,393,000.

In my opinion, the major thrust of the entire Federal education effort—which only amounts to about 7 percent of total school expenditures—has been and should continue to be in the areas of innovation and development. Title I has focused on the special educational problems of the disadvantaged and has stimulated an enormous amount of new activity in this field. Title II has assisted in the development of new resource programs through aid to libraries and associated services. And title III has, for the first time, made significant amounts of funds available expressly for the purpose of innovation and development.

The first point to be made about title III is that it has worked. Almost three-quarters of the projects funded have been continued with State or local funds after the 3-year Federal support period terminated. In light of the constraints on local school budgets over the past several years, this is an amazing record. Further, there is evidence that a significant number of these projects—about one third according to most estimates—are being adopted by other schools or school systems. And of course, beyond strict replication of specific projects, many of the concepts and techniques developed under title III have been used in modified form throughout the country.

Because of the concern with being able to assess and repeat successful programs, these projects are subject to an elaborate and comprehensive evaluation procedure at each step of their existence. First, each project must have a detailed plan in order to qualify for funding. Before being funded, these plans are subject to review by a State level title III Advisory Council, the State education agency, and often, a panel of outside experts. Second, each program is evaluated annually by the State agency as well as being in continuing liaison with the State. Finally, especially successful projects are nominated by their State for "validation," the process by which the Federal Office of Education certifies projects for replication elsewhere. Here the project is analyzed in terms of cost-effectiveness, exportability and its effect on student achievement.

I am sure that cases can be cited where these projects have been controversial, poorly executed or just plain failures. But any program of innovation and development will involve blind alleys and unsuccessful projects. It would be a poor program of innovation if there were no failures. I think the high continuation rate by the States and localities is very strong evidence of the usefulness of this program.

Finally, it should be apparent that all is not well with American education. Our people sense it in their refusal to support its funding at previous levels. And our inability to deal adequately with national problems such as inflation and the energy shortage indicate, at least in part, a failure of the educational system.

At this time of change and crisis, cuts in funds for innovation and development seem particularly untimely. We spend less than 1 percent of our education funds for development; and title III constitutes 80 percent of this tiny amount, title III is cost effective and the evidence is that it works. I hope Senators will join with me in helping to preserve the vital role of this program in American education.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I think it would be well for the Members of the Senate before voting on this amendment to take account of what is being done in this field already.

According to the Senate report under the title of "Supplementary Services" the report states:

The bill contains \$120,000,000 for supplementary services authorized by Title III of the Elementary and Secondary Education Act. The amount recommended is a decrease of \$26,393,000 below the request—I think that means budget request—"and \$5 million below the House allowance."

Now, this is what I think is significant and it ought to be taken into account:

Under this program, grants are awarded to State and local educational agencies primarily to support projects considered to be exemplary and/or innovative. Although supportive of the thrust of this program, the Committee is not convinced that all of the more than 1,800 projects currently in operation should continue. The Committee con-

curs with the House concerning the ability to monitor this activity so as to allow successful projects to be replicated. For these reasons, the Committee has also reduced the request for advance funding for Title III programs included under support and innovation grants.

Well, Mr. President, it does seem to me that if we are now supporting 1,800 of these individual projects that out of those we should learn something, and if we cannot learn something from that number, why, we had better begin reducing this program.

I do not think more money is needed. I think the House was wise in cutting it some. It is now \$20-some-odd million below the budget.

To add back to it is just giving more to a program that may or may not be working. We have a chance to determine out of 1,800 if any of these programs are any good and, if they are, to make use of them.

Somewhere, Mr. President, in the expenditure of over \$300 billion a year there are areas where cuts can and should be made without doing any irreparable harm, and be done at a saving, and be done prudently.

Certainly a prudent reduction could be made in this item and, for that reason, I shall support the action of the committee.

Does the Senator from New Hampshire want some time?

Mr. COTTON. Just one word.

Mr. McCLELLAN. I yield to the distinguished Senator from New Hampshire.

Mr. COTTON. I would simply like to report, in the absence of the Senator from Washington, that we agree with every word that our distinguished chairman of the committee has said.

Now, at the time our subcommittee met and we took the evidence on this matter we found there were in existence already various experimental projects, innovative projects or special projects, and according to the testimony of the Office of Education, over 1,700 of those projects were going throughout the country. At least one representative—I do not think it was the commissioner of the Office of Education, but one of the witnesses—admitted that it was utterly impossible, of course, to monitor any such number of projects and be familiar with their purpose and their success, and most of them have run for 2 or 3 years. Now those projects cannot all be good. They may be good in purpose but they cannot all be effective projects.

It seems that this is one point where, without ending the program, we could be a little more sparing in the money that we appropriated and, therefore, both the chairman of the subcommittee, the Senator from Washington, and I am entirely in agreement with the chairman of the full committee, and we feel we must oppose this amendment.

Mr. McCLELLAN. I anticipate that the chairman of the subcommittee, the distinguished Senator from Washington, will be on the floor in a minute. But, if I may ask the Senator, the ranking member on the subcommittee, according to the information I have from the testi-